

Remarks

Response to Office communication

This communication is responsive to the Office communication of October 8, 2003. Claims 2-3, 5-8, 10-12, 17-23, and 25-65 are currently pending, Claims 2, 3, 5-8, 10-12, 20, 25, and 33 having been amended, Claims 1, 4, 9, 13-16, and 24 having been canceled, and Claims 56-65 having been added by this amendment. Applicant notes with appreciation the Examiner's allowance of Claims 17-19, 26-31, 54 and 55.

Specification

The Examiner objected to the Amendment filed on June 2, 2003 as introducing new matter on page 15 of the specification. As requested by the Examiner, Applicant hereby resubmits the amendment to page 15, line 1 of the specification, which was originally submitted in the Amendment of November 13, 2003, but was inadvertently not submitted in the Amendment of December 9, 2003. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

The Examiner also objected to the disclosure, asserting that one part of the specification appears to contradict another part of the specification. Specifically, the Examiner asserts that if the halogen-containing compound is substantially immiscible, then about 10 wt% or less or 1000 ppm or less would be in the nonaqueous electrolyte solution, in contrast to page 15, line 20 to page 16, line 8 which state that the halogen-containing compound would not be in the region between the positive pole and the negative pole defined by the separator.

Applicant has amended the specification as indicated above to clarify that the halogen-containing compound is "substantially immiscible" in the non-aqueous electrolyte solution (page 5, line 19), and therefore, the halogen-containing compound is "substantially" not in the region between the positive pole and the negative pole (page 16, line 5). Applicant submits that these amendments are supported by the specification as filed, and therefore, no new matter is believed to have been added.

Claim Rejections – 35 USC § 112

The Examiner rejected Claim 33 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant has amended Claim 33 as indicated above, and respectfully requests withdrawal of this rejection. See MPEP § 2163.05.

The Examiner rejected Claims 20-23 and 32-53 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner asserts that in Claim 20, the limitation “a flame retardant material that is a liquid at room temperature and pressure and substantially immiscible in the nonaqueous solution, and not in the region defined by the separator” is indefinite because it is unclear why the flame retardant material would not be in the region defined by the separator since the flame retardant material is substantially immiscible with the nonaqueous electrolyte solution, which means that about 10 wt% or less or about 1000 ppm or less is in the nonaqueous solution, according to the definition given on page 15, line 20 to page 16, line 8 for the term “substantially immiscible.” The Examiner notes the same sections of the specification previously noted in the objections to the specification, discussed above. The Examiner also asserts that Claims 52 and 53 are indefinite because they appear to contradict Claim 20.

As indicated above, Claim 20 has been amended to recite, *inter alia*, “a flame retardant material that is a liquid at room temperature and pressure and substantially immiscible in the nonaqueous electrolyte solution, and substantially not in the region defined by the separator.” This limitation is consistent with the amendments made to the specification discussed above, and is consistent with the limitations recited by Claims 52 and 53. Accordingly, Applicant respectfully requests that the rejections of Claims 20-23 and 32-53 be withdrawn.

Claim Rejections – 35 USC § 102

Claims 1-15 and 25 were rejected as being anticipated by JP 10-012272A (JPO Machine Translation). Claims 1, 2, 4-10 and 12-15 were rejected as being anticipated by Arai et al. (US 2002/0160273 A1).

Applicant does not agree with the Examiner's rejection of these claims, but in order to expedite prosecution, Applicant has amended Claims 2, 3, 5-8, 10-12, and 25 to depend from allowed Claim 26 or a claim depending therefrom and canceled Claims 1, 4, 9, and 13-16 without prejudice. Applicant reserves the right to pursue these claims at a later date.

New Claims

Applicant has added new Claims 56-65, depending from allowed Claim 29 or a claim depending therefrom.

Conclusion

Applicant submits that the claims as amended define patentably over the prior art and that this application is now in condition for allowance. Accordingly, favorable reconsideration and allowance of this application is courteously requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Bush', with a long horizontal flourish extending to the right.

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